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September 25, 2006

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attn: Art Unit 3628
Patent Examiner Timothy Harbeck

Re:

Application No.:	**09/414,290**
Confirmation No.:	**3095**
Appellants:	**Enright, et al.**
Title:	**Remote Viewing of ATM Transaction Records**
Docket No.:	**D-1112 R1**

Sir:

Please find enclosed the 2nd Supplemental Appeal Brief of Appellants pursuant to 37 C.F.R. § 41.37 for filing in the above-referenced application.

A fee of $500 was already paid for a previously filed Appeal Brief. Thus, no fee is deemed necessary. However, please charge any fee due to Deposit Account 09-0428.

Very truly yours,

Ralph E. Jocke
Reg. No. 31,029

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D-1112 R1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of		
	Enright, et al.	
Application No.:	**09/414,290**	Art Unit 3628
Confirmation No.:	**3095**	
		Patent Examiner
Filed:	**October 7, 1999**	Timothy Harbeck
Title:	**Remote Viewing of ATM Transaction Records**	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

SECOND SUPPLEMENTAL BRIEF OF APPELLANTS PURSUANT TO 37 C.F.R. § 41.37

Sir:

The Appellants hereby request reinstatement of their appeal. The Appellants hereby submit their 2nd Supplemental Appeal Brief pursuant to 37 C.F.R. § 41.37 concerning the above-referenced Application. This 2nd Supplemental Appeal Brief is in response to the Office Action dated March 30, 2006 which reopened prosecution.

(i) REAL PARTY IN INTEREST

The Assignee of all right, title and interest to the above-referenced Application is Diebold, Incorporated, an Ohio corporation.

(ii) RELATED APPEALS AND INTERFERENCES

At least one other appealed application (e.g., 10/603,266) claims priority to Provisional application 60/103,731. It is believed that no other appealed application pertains to the claimed subject matter. However, it is respectfully requested that the Board of Appeals and Interferences ("Board") make its own determination regarding the pertinence of any other application.

Appellants, Appellants' legal representative, and assignee believe that there are no additional related appeals or interferences pertaining to this matter.

(iii) STATUS OF CLAIMS

Claims 1-43 are pending in the Application.

Claims rejected: 1-43

Claims allowed: none

Claims confirmed: none

Claims withdrawn: none

Claims objected to: none

Claims canceled: none

Appellants appeal the rejections of claims 1-43, inclusive. These rejections were in the Office Action ("Action") dated March 30, 2006.

(iv) STATUS OF AMENDMENTS

The non-final Action dated March 30, 2006 reopened prosecution following the 1st Supplemental Appeal Brief (dated January 13, 2006). Appellants respectfully request reinstatement of their appeal. Claims have been rejected at least four times.

No final rejection is pending. Therefore, no amendments to the claims were requested to be admitted after a final rejection.

(v) SUMMARY OF CLAIMED SUBJECT MATTER

Concise explanations of exemplary forms of the claimed invention:

For reasons of brevity, claim language may be referred to herein (and in Appellants' arguments) in a shortened version. For example, language such as "at least one" may be simply referred to as "a". Any generalized statement herein is not to limit any of the mentioned claims in any manner. Please refer to the specific claim for the exact claim language.

With respect to independent claim 1

An exemplary form of the invention is directed to an apparatus. For example, note Figures 1-2 and corresponding Specification pages 20-27. The apparatus includes an automated banking machine (e.g., ATM 12; page 20); a camera (24, 26; page 21); a computer (40) including a server in operative connection with a data store (42) (page 22, lines 14-18); a communication network (44) (page 24, lines 1-4); and a user terminal (46, 52; page 25) including an output device (62, 64; page 26, lines 1-2) and a browser (48; page 25, line 7). The machine (12) can carry out at least one transaction function (page 22, lines 7-13). The computer (40) is in operative connection with both the machine (12; page 22, lines 15-16) and the camera (24, 26; page 23, lines 1-2). The computer (40) can include image data corresponding to the camera signals in the data store (42) responsive to the machine (12) carrying out a transaction function (page 8, lines 16-18; page 23, lines 8-13; page 26, lines 16-21; page 39, lines 1-2 and 18-21; page 69, lines 10-13 and 18-20; page 105, and lines 7-9). The communication network (44) is in operative connection with the server (40) and the user terminal (46, 52) (Figure 2). The user terminal (46, 52) can communicate with the server (40) through the browser (48) (page 25, lines 7-8; page 26, lines 3-6). The user terminal (46, 52) can output images corresponding to the image data through its output device (62, 64) (page 72, lines 6-8).

With respect to independent claim 38

Another exemplary form of the invention is directed to an apparatus. Support in the disclosure for similar claim language has previously been provided. The apparatus includes an ATM (12) comprising a plurality of function devices (14, 16, 18, 20, 22; Figure 2; page 22, lines 7-13); a camera (24, 26); a computer (40); a communication network (44); and a terminal (46, 52) remotely located from the ATM (12). The computer (40) can store (on a first date) image data corresponding to the camera signals in a data store (42) responsive to operation of a selected function device (14, 16, 18, 20, 22). Note the function device selection at page 69, lines 14-20. The terminal (46, 52), being in operative connection with the data store (42), can receive (on a second date) retrieved stored image data. The terminal (46, 52) can also display images corresponding to the retrieved image data through its display device (62).

With respect to independent claim 41

Another exemplary form of the invention is directed to an apparatus. Support in the disclosure for similar claim language has previously been provided. The apparatus includes an ATM (12) comprising a plurality of transaction function devices (14, 16, 18, 20, 22; Figure 2; page 22, lines 7-13); an image device (24, 26); a computer (40) including a server in operative connection with a data store (42) and the ATM (12); a network (44); and a user terminal (46, 52). Responsive to the ATM (12) carrying out an ATM transaction function through operation of a transaction function device (14, 16, 18, 20, 22), the computer (40) can cause (at a first time) image data corresponding to the image device signals to be included in the data store (42). The user terminal (46, 52) can communicate with the server to output (at a second time) images corresponding to the (data store) image data through the user terminal's output device (62).

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The questions presented in this appeal are:

1). Whether claims 1-9, 13, 17, 22, and 25-43 are unpatentable pursuant to 35 U.S.C. § 103(a) as obvious over Eisenberg (US 5,354,974) in view of the article *Java goes full circle*, Bank Technology News, 12/1996 (hereafter "Java").

2). Whether claims 10-11, 14-16, 18-21, and 23-24 are unpatentable pursuant to 35 U.S.C. § 103(a) as obvious over Eisenberg in view of Java and Hoang (US 6,014,183).

3). Whether claim 12 is unpatentable pursuant to 35 U.S.C. § 103(a) as obvious over Eisenberg in view of Java and Hoang and Wookey (US 6,023,507).

(vii) ARGUMENT

The Applicable Legal Standards

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features of the claim are known in the prior art. This is known as *prima facie* obviousness. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. If the Office does not produce a *prima facie* case, then the Appellants are under no obligation to submit evidence of nonobviousness. MPEP § 2142.

The teaching, suggestion, or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Even if all of the features recited in the claim are known in the prior art, it is still not proper to reject a claim on the basis of obviousness unless there is a specific teaching, suggestion, or motivation in the prior art to produce the claimed combination. *Panduit Corp. v. Denison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

Evidence of record must teach or suggest the recited features. An assertion of knowledge and common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). A rejection must be based on evidence of record. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

It is respectfully submitted that the Action requiring appeal does not meet these burdens.

The Claims Are Not Obvious Over
Eisenberg in view of Java

Claims 1-9, 13, 17, 22, and 25-43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eisenberg in view of Java.

The Action (at page 4) admits that Eisenberg does not teach or suggest all recited features, including a computer having a server in operative connection with a data store; a communication network in operative connection with the server; and a user terminal having a browser, where the terminal can communicate with the server through the browser.

The Action (at page 4) alleges that Java teaches "the use of a centralized server, accessible by an automated teller machine that is in operative connection to a database". The Action then alleges that it would have been obvious to include the teaching of Java to the disclosure of Eisenberg "so that an ATM will be able to access and consult an exterior source of information that holds data related to the customer using the machine".

The Action (at page 4) further alleges that Java teaches "automated teller machines that are equipped with browsers and connected to a TCP/IP compliant network". The Action then alleges that it would have been obvious to include the teaching of Java to the disclosure of Eisenberg to "allow for the downloading and implementation of new or otherwise absent transaction functions to any ATM, as well as allow the ATM to consult outside sources, like a Bank website"; "allow an ATM to be upgraded"; "provide the customer with state of the art features"; and "access to online banking functions".

Appellants respectfully disagree with the features attributed to the references. The Office cannot attribute features to the references that they do not teach or suggest.

Brief review of Eisenberg

Eisenberg is directed to a system where an ATM customer can use an emergency PIN. When the customer is being forced to withdraw cash from the ATM (5), the customer inputs the emergency PIN instead of their regular PIN. A computer (10), which is remotely located from the ATM, determines (as shown in Figure 2) whether an inputted PIN is a regular PIN (box 103) or an emergency PIN (box 110) (col. 3, lines 9-11, 25-26, and 45-47). In response to the remote computer's determination of an emergency PIN, it generates a silent alarm and causes operation of a camera (6) near the ATM. The silent alarm notifies the proper authorities (police or bank security people) of a theft in progress. The camera (6) is operated in the emergency either to come on or to take a close up. Video from the camera can be transmitted directly to the authorities at the same time as the silent alarm.

As discussed in more detail later, Eisenberg does not store images in an accessible data store. Nor does Eisenberg store images in response to his ATM carrying out a transaction function. Nor does Eisenberg access images in a data store from a user terminal running browser software. Eisenberg does not teach, suggest, or need a server or a browser. Nor does Eisenberg teach, suggest, or need the recited user terminal.

Brief review of Java

Java has an ATM. As discussed in more detail later, Java does not store *images* in a data store in response to his ATM carrying out a transaction function. Nor does Java access and output data store images at a user terminal, especially a user terminal having a browser. Java has

a browser on an ATM, not on a user terminal. Java does not teach or suggest the recited user terminal. Java does not teach or suggest the recited features and relationships.

A *prima facie* case of obviousness has not been established

Nor would it have been obvious to have combined the references in the manner alleged by the Office. Furthermore, even if it were somehow possible (which it isn't) to have combined the references as alleged, the result still would not have produced the recited apparatus. The Office has not established a *prima facie* case of obviousness. For example, neither reference teaches or suggests the following features:

Feature 1. A computer/server that stores camera image data in a data store responsive to the automated banking machine carrying out a transaction function.

Feature 2. A user terminal browser that communicates with the server to access the image data from the data store.

Feature 1

1A. The references don't teach or suggest storing image data.

Eisenberg doesn't store image data in the manner recited

Eisenberg teaches away from storing captured camera image data in a server data store. Eisenberg sends a live (not previously stored) video feed from the ATM camera to the local police (col. 2, lines 1-3). The local police rely on the timeliness of the information provided by the feed. No storage of image data by a server is needed in Eisenberg. Eisenberg doesn't mention or need a server. One having ordinary skill in the art (including Eisenberg) would have recognized that it would not have been obvious to transmit the video from the ATM to a cental data store via a server, especially when the police already have the video.

Nor would it have been obvious to transmit Eisenberg's video from the ATM to a data store on a network (as apparently alleged by the Office), since only the (one) local police department needs the video. Even if (for sake of argument) the police later decided to make the video available to other police departments, and the police (for sake of argument) were somehow able to place the video on a police server that was (for sake of argument) somehow accessible nationwide via police terminals, it still would not have been placed on the police server by a (bank) computer that is in operative connection with the ATM and the ATM camera. Nor would the computer have caused the video to be stored on the police server responsive to the ATM carrying out a transaction. That is, the timing of the hypothetical video placement would be dictated by the police and would have nothing to do with transaction operation of the ATM.

Furthermore, because of the rarity of robberies at a particular ATM, there would not be any need for transmission of police video to a cental data store. Rather, community safety would dictate that an unacceptable rate of robbery at any ATM would result in the ATM being relocated. Economics alone teaches away from the alleged modification.

Additionally, Eisenberg teaches away from the Office's allegation of the central computer (10) being operative to store captured camera video in a data store. Where does Eisenberg teach or suggest that the central computer (10) handles any camera video? Eisenberg simply states (col. 7, lines 1-3) that the camera video can be transmitted via a modem directly to the police. That is, video goes from the camera to the police. Eisenberg does not teach or suggest that the video goes from the camera (6), to the central computer (10), and then to the police. Eisenberg's central computer (10) is dedicated to handling ATM transactions (col. 2, lines 63-68), not to storing and accessing police video.

The relied upon assertion (occurring at Action page 18, last paragraph) that Eisenberg's "central computer would almost certainly contain a storage device for . . . video and audio information obtained by the camera for security purposes" lacks concrete evidence of record. *In re Zurko*, supra. A rejection must be based on evidence of record, not on unsupported assertions (which is the current situation). *In re Lee*, supra. As previously discussed, there isn't any need (or disclosed ability) for Eisenberg's central computer (10) to store police video, especially police video that was already sent to the police (or bank security people) (col. 2, lines 1-3). Eisenberg's central computer (10) handles ATM transactions (col. 2, lines 63-68), not police video.

In Eisenberg, the video goes to the police. No storing of image data in a server data store is taught, suggested, or needed by Eisenberg. As previously discussed, Eisenberg doesn't even mention a server. Storing Eisenberg's video in a server data store would be equivalent to storing his silent alarm (7) in a server data store. The storage would cause the information (which is needed by the police at the time of the theft) to be outdated and not used for its intended purpose.

At best, Eisenberg has a conventional security camera (6). Eisenberg indicates that the camera (6) itself performs the video recording/storing (col. 1, lines 63-64; col. 3, lines 51-52). It follows that in Eisenberg the camera video is conventionally stored on a local medium, such as a tape in the camera. Even the Office acknowledges (e.g., at Action page 10, last paragraph) that Eisenberg's camera images are likely recorded onto a local analog tape. That is, the video goes directly from the camera to a nearby tape. It is well known that security cameras can continuously overwrite their tape. As a result, a 12-hour security tape would contain the most recent 12 hours. This overwriting is likely why Eisenberg sends the video to the police at the same time as the silent alarm. The Office doesn't explain how a computer/server could store the

images onto the tape. Nor does the Office explain how a user terminal browser could (digitally) communicate with a network server to access video from the analog tape. The Office has not established a *prima facie* case of obviousness.

Furthermore, Eisenberg's sending a live video feed from an ATM camera to the police has nothing to do with the Office's provided motivation (on Action page 4) for modifying Eisenberg, including enabling an ATM "to access and consult an exterior source of information that holds data related to the customer using the machine" and "allow the ATM to consult outside sources".

Even if it were somehow possible (which it isn't) for Eisenberg to have an ATM server in connection with an ATM as alleged, and it were even further possible (which it isn't) for the ATM server to store police video in a central data store, there still would not be any teaching or suggestion to use the ATM server to access the police video from the data store (as alleged). One skilled in the art would *not* have found it obvious to dedicate an ATM server to providing police video (as alleged). Nor would one skilled in the art use an ATM to access police video from a central data store via an ATM server (as alleged).

Eisenberg already has "bank security people" (col. 2, line 2). That is, Eisenberg's security side is separated from his ATM transaction side. It follows that Eisenberg teaches away from using his central computer (10), which appears dedicated to ATM transactions, for purposes of security (i.e., storage of police video dedicated to theft).

Java doesn't store image data

Java (like Eisenberg) doesn't store image data, especially image data captured by a camera at an ATM. At best, Java conventionally stores transaction data. Thus, Java cannot alleviate the noted and admitted deficiencies of Eisenberg.

Nor does Java store ATM image data corresponding to a theft in progress. Thus, the teaching of Java is not compatible with the (theft in progress) teaching of Eisenberg.

It follows that neither Eisenberg nor Java teaches or suggests storing captured image data in the manner recited. The Office has not established a *prima facie* case of obviousness. It follows that the alleged combination, even if somehow possible (which it isn't), still would not have resulted in the recited apparatus.

1B. The references also don't teach or suggest storing image data responsive to a transaction.

Eisenberg teaches away from storing image data responsive to his ATM (5) carrying out a transaction function. Conversely, Eisenberg specifically teaches actuating the camera (6) in response to a message from a central computer (10) that is remotely located (Figure 1) from the ATM (5) operation (col. 3, lines 9-14 and 45-51).

Additionally, it would appear that in Eisenberg a police computer would determine whether the video received from the ATM camera would be stored. The Office has not shown that Eisenberg's police computer would store the image data "responsive to" the ATM carrying out a transaction function. Any police determination for storage would be independent of an ATM transaction function.

Java doesn't store image data (as previously discussed), let alone store it in response to an ATM transaction function. Thus, Java cannot alleviate the noted and admitted deficiencies of Eisenberg.

It follows that neither Eisenberg nor Java teaches or suggests storing image data responsive to an ATM carrying out a transaction function in the manner recited. The Office again has not established a *prima facie* case of obviousness. It follows that the alleged

combination, even if somehow possible (which it isn't), still would not have resulted in the recited apparatus.

Feature 2

The references don't teach or suggest the recited user terminal

The references don't teach or suggest the recited user terminal features or the recited user terminal relationships. Where do the references teach or suggest a user terminal using a browser to communicate with a server to access data store image data and to output images corresponding to the accessed image data through an output device, especially where the image data was produced from a camera adjacent an automated banking machine and the server stored the produced image data in the data store responsive to the machine carrying out a transaction function?

The Office has provided no link between Eisenberg's direct sending of a live video feed from an ATM camera to the security people/police *and* Java's use of a centralized server's massive database that holds customer marketing information for use in cross selling products. One skilled in the art would not store images of ATM theft (which are immediately needed by the security people/police) on a marketing database. Nor has the Office shown evidence that a marketing database would be used to cross sell ATM theft images. Nor has the Office shown evidence that ATM theft images could be selectively retrieved from a marketing database for viewing. Rather, the next cross sell presented to the customer would not be the customer's choice but instead would be based on a computer marketing program.

2A. The references teach away from a user terminal browser.

Eisenberg teaches away from a user terminal having a browser. The Office (on Action page 4) admits that Eisenberg does not teach or suggest that a "user terminal includes a browser". Eisenberg's modem (col. 2, line 2) is not a browser, but teaches away from Eisenberg having a browser. Nor does Eisenberg's sending/receiving of camera data to police require a browser.

Java also teaches away from a user terminal having a browser. Java at best only teaches providing an ATM (not a user terminal) with a browser. Where does Java teach or suggest a user terminal having a browser? Where does Java even teach or suggest a user terminal? Thus, Java cannot alleviate the noted and admitted deficiencies of Eisenberg.

As the Action has not established that either Eisenberg or Java teaches or suggests a user terminal browser, the Office again has not established a *prima facie* case of obviousness. It follows that the alleged combination, even if somehow possible (which it isn't), still would not have resulted in the recited apparatus.

2B. The references not teach or suggest a user terminal communicating with a server.

Eisenberg teaches away from a user terminal browser communicating with a server (in operative connection with a data store) to access image data stored in the data store. The Office (on Action page 4) admits that Eisenberg does not disclose "a server in operative connection with a data store"; "a communication network [is] in operative connection with the server"; or that a "user terminal communicates with the server through the browser". That is, the Office acknowledges that Eisenberg does not teach or suggest the recited features. Also, Eisenberg's police are "dispatched immediately to the ATM" (e.g., col. 1, last line) and depend on live video from the ATM camera, not stale video from a data store.

Java does not teach or suggest a user terminal browser or storing *image* data. Nor does Java teach or suggest accessing image data stored in a data store (via a user terminal browser), especially image data that was captured responsive to machine transaction function operation. Thus, Java cannot alleviate the noted and admitted deficiencies of Eisenberg.

As neither Eisenberg nor Java teach or suggest a terminal browser communicating with a server (in operative connection with a data store) to access image data stored in the data store, the Office again has not established a *prima facie* case of obviousness. It follows that the alleged combination, even if somehow possible (which it isn't), still would not have resulted in the recited apparatus.

Even if the references were combined as alleged, the recited apparatus still wouldn't be produced

The Action relies on Eisenberg at col. 2, lines 59-68 for teaching "an automated banking machine". The relied upon section refers to a system having an ATM (5) and a central computer (10), where the ATM (5) has a card reader (1), keypad (2), display (3), and a cash dispenser (4). The Action further relies on Eisenberg at col. 2, lines 1-3 for teaching a "user terminal". This further relied upon section states that "Video and audio information can be transmitted via modem to bank security people or the police at the same time". That is, the Office itself distinguishes an ATM (used by a customer) from a user terminal (used by bank security people or the police).

The rejection alleges that Java has a central server and that it would be obvious to modify Eisenberg to include Java's server "so that an ATM will be able to access and consult an exterior source of information that holds data related to the customer using the machine".

Appellants respectfully disagree. Even if it were somehow possible (which it isn't) to modify Eisenberg as alleged, the modified Eisenberg still would not result in a networked user terminal that communicates with a networked server to retrieve from storage images captured at an ATM. First, the alleged "data related to the customer" would not be images captured at an ATM. Secondly, it would not have been obvious to modify Eisenberg as alleged to have an ATM communicate with a server to retrieve images that correspond to a different ATM. Why would Eisenberg need to display images at a second ATM that were captured at a first ATM? He doesn't. Thirdly, the recited claim 1 apparatus comprises both an automated banking machine and a user terminal, and "the user terminal communicates with the server". Therefore, even if it were somehow possible (for sake of argument) to modify Eisenberg as alleged to have an ATM communicate with a server, the modification would be pointless because it does not address the recited features. The rejection is not valid because it is wrongly based on ATM/server communication, not the recited user terminal/server communication.

The rejection does not support a conclusion of obviousness

The Office's allegations that it would be obvious to combine the references to produce ATM images, have the images stored into a data store by a network server (in response to an ATM transaction function), and then have the images retrieved from the data store via the server and displayed at a user terminal having a browser are not supported by the evidence of record. Where do the references teach or suggest a network server that handles ATM images, including storing the images so they can later be accessed at a user terminal on the network for viewing, as alleged?

In review, Appellants have shown that the references do not teach or suggest *all* of the recited features and relationships. Thus, the Action does not factually support any *prima facie* conclusion of obviousness. Nor would it have been obvious to have combined the references as alleged by the Office. Furthermore, even if it were somehow possible (which it isn't) to have combined the references as alleged, the result still would not have produced the recited apparatus. Thus, Appellants respectfully submit that the 35 U.S.C. § 103(a) rejection of claim 1 should be reversed.

Claim 2

Neither Eisenberg nor Java teaches or suggests storing image data in a data store in response to the ATM operating to provide cash. As previously discussed, Eisenberg specifically teaches actuating the camera (6) in response to a message from a central computer (10) that is remote from his ATM operation (col. 3, lines 9-14 and 45-51). Eisenberg's camera (6) is not actuated in response to his ATM (5) operating to provide cash.

The rejection relies on Eisenberg at col. 3, lines 13-16 and 50-53. However, the relied upon section actually shows (in Figure 2) that providing cash (box 108) is the final step. That is, Eisenberg actuates the camera (box 116 of Figure 2) prior to providing cash (box 108). If providing cash is the final step, then storing image data in a data store can't be responsive thereto, as alleged by the Office. It follows that Eisenberg himself provides evidence that the Office has not established a *prima facie* case of obviousness. Nor would it have been obvious to have modified Eisenberg as alleged to have produced the recited apparatus.

Claim 3

Claim 3 depends from claim 2/1. The references, taken alone or in combination, further do not teach or suggest storing image data in a data store when an amount of provided cash is at least a predetermined amount. Where does Eisenberg/Java link the storage of image data to a transaction involving a predetermined amount of cash? They don't.

The Action admits (on page 5) that even a combined Eisenberg/Java would not teach or suggest the recited features. No other prior art teaching or suggestion is being relied upon by the Office to support the rejection. Thus, the Office's own admission is *prima facie* evidence against the validity of the rejection. That is, Appellants respectfully submit that the Office's admission of deficiencies in Eisenberg/Java, without any other prior art teaching or suggestion to alleviate the admitted deficiencies, constitutes an admission that the rejection is improperly based on pure assertions and not concrete evidence of record. The record admittedly lacks substantial evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra. A *prima facie* case of obviousness has not been established by the Office. The Action's many assertions are without merit because they are not based on reviewable prior art evidence of record. Appellants have a right to see all evidence (including asserted evidence) on which their patent grant is being denied.

A rejection cannot be legally valid when even the Office acknowledges that the relied upon references (even if combined) lack the recited features. If the Office does not meet its initial burden of establishing a *prima facie* case of obviousness (which admittedly is the current situation), then Appellants are under no obligation to submit arguments of nonobviousness (MPEP § 2142). The Appellants are not required to prove patentability. In light of the Office's admitted inability to make a valid rejection, the USPTO is legally required to allow the claim.

Appellants have shown that the 35 U.S.C. § 103(a) rejection of claim 3 is not legally valid. Thus, no further discussion thereof is needed. However, it should be noted that even without the (factually correct) admission by the Office as to Eisenberg/Java deficiencies, Eisenberg/Java still would not teach or suggest the recited features.

Claim 4

The references further do not teach or suggest storing image data responsive to operation of each of a plurality of transaction function devices during a transaction. The Action admits (on page 6) that even a combined Eisenberg/Java would not teach or suggest the recited features. Since no other prior art teaching or suggestion is relied upon to support the rejection, the rejection is improperly based on pure assertions instead of the legally required concrete evidence of record. *In re Zurko*, supra. *In re Lee*, supra. The Office admittedly has not established a *prima facie* case of obviousness. Note Appellants' claim 3 remarks for further explanation as to why the rejection cannot be legally valid when the Office itself admits that even the combined references would lack the recited features.

Additionally, the Office's proposed "user-initiated actions" (on Action page 6) in Eisenberg are not actions of a "transaction function device", especially during a "transaction".

Also, Eisenberg's emergency PIN does not correspond to a real "transaction". Rather, the emergency PIN merely causes a simulation of a transaction. Even Eisenberg teaches that an emergency PIN causes the ATM to simulate a real transaction (abstract; col. 2, lines 11-28 and 40-45; col. 3, line 54 to col. 4, line 11; col. 4, lines 40-45). The ATM is "automatically" (col. 2, line 22) controlled, which results in a "predetermined" (col. 2, line 45; col. 4, line 44) outcome. Even the display screen at the ATM is controlled during the simulation (col. 4, lines 3 and 8).

The user has no control of the ATM during the simulation and can't carry out a real transaction. Nor is there any evidence in Eisenberg that a user account would be assessed (as in a real user transaction) for any cash dispensed in the simulation.

Claim 5

The Action admits (on page 7) that even a combined Eisenberg/Java would not teach or suggest that responsive to a stored sequence, a computer can sense lack of usable video from a first camera to store image data from a second camera. No other prior art teaching or suggestion is relied upon to support the rejection. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 6

The Action admits (on page 7) that Eisenberg does not teach or suggest storing both image data and transaction data in a data store. As previously discussed, Java doesn't store image data (taken from an ATM camera) in a data store. Nor is there any teaching or suggestion of storing transaction data (along with image data) in Eisenberg's camera (6). The Office has not established a *prima facie* case of obviousness. Nor would it have been obvious to have modified Eisenberg as alleged to have produced the recited apparatus.

Claim 7

Claim 7 depends from claim 6/1. The Action admits (on page 8) that even a combined Eisenberg/Java would not teach or suggest a user terminal that can process transaction data with a browser, and can output indicia corresponding to the transaction data along with the image data through an output device. Thus, the Office admittedly has not established a *prima facie* case of

obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

For the record, Eisenberg does not teach or suggest that security personnel or police are connected to a network, as alleged by the Office. Even the Office admits (at Action page 26, lines 1-3) that Eisenberg/Java do not teach or suggest transmitting camera signals to a computer through a network. Nor does Eisenberg teach or suggest having information stored on a network to enable the information to be later viewed at respective user terminals, as alleged by the Office.

Nor has the Office provided any teaching or suggestion of ATM transaction data and ATM image data stored together in Eisenberg, as apparently alleged by the Office. ATM transactions are conventionally assigned a transaction number. The details of any transaction can be provided to the police by the bank (from transaction records). ATM transaction data and ATM image data don't need to be stored together in Eisenberg (if it were even somehow possible). Furthermore, a proprietary banking system conventionally handles ATM transaction data (not image data). The Office has not provided any evidence that a proprietary ATM banking system dedicated only to transaction data could also handle image data.

Claim 8

The references further do not teach or suggest a computer that can include in the data store, image data corresponding to a second camera. The relied upon section of Eisenberg (at col. 3, lines 13-16), as best understood, indicates that a single camera (6) can be actuated to either take different (multi-angled) views of the scene or enhance a (single angled) view of the scene via a close up. The references don't even teach or suggest storing image data in a data store (as

previously discussed with regard to claim 1), let alone storing second camera image data in the data store. The Office has not established a *prima facie* case of obviousness.

Claim 9

Claim 9 depends from claim 8/1. The Action admits (on page 9) that even a combined Eisenberg/Java would not teach or suggest a camera located in an *interior* of their ATM. As shown in Eisenberg's Figure 1, the relied upon camera (6) is situated *exterior* of the ATM (5). Thus, the Office admittedly has not established a *prima facie* case of obviousness. *In re Zurko*, supra. *In re Lee*, supra. Note Appellants' claim 3 remarks for further explanation as to why the rejection cannot be legally valid when the Office itself admits that even the combined references would lack the recited features.

The Action's reliance on Eisenberg at col. 3, lines 13-16 is without merit. The Office cannot attribute to Eisenberg what Eisenberg does not teach or suggest. As previously discussed (claim 8 remarks), the relied upon section in Eisenberg, as best understood, indicates that a single camera (6) can be actuated either to take different (multi-angled) views of the scene or to enhance a (single angled) view of the scene with a close up. However, claim 9 refers to a *second* camera.

The Action's assertion (on page 9) that it would have been obvious to move Eisenberg's exterior camera (6) interior of the ATM "to capture close up images" is without any supporting basis. As Eisenberg's exterior camera (6) can already provide close ups (col. 3, line 16), there would be no practical reason to move it (even if somehow structurally and functionally possible) to the ATM interior. The only reason provided on record for the asserted movement of camera

(6) is impermissible hindsight reconstruction of Appellants' claimed invention. The Office has not established a *prima facie* case of obviousness.

Claim 13

The references further do not teach or suggest a data store including instructions representative of a sequence. The references also do not teach or suggest a computer that is operative responsive to the sequence to include image data in the data store. Nor do the references teach or suggest (as the Office admits) the ability to change the sequence through a user terminal. The Office has not established a *prima facie* case of obviousness.

Claim 17

The Action admits (on page 10) that even a combined Eisenberg/Java would not teach or suggest the recited features, especially a server and data store located within their ATM. Thus, the Office admittedly has not established a *prima facie* case of obviousness. *In re Zurko*, supra. *In re Lee*, supra. Note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

The Office's assertions are without supporting basis. Eisenberg does not teach or suggest the central computer (10) being located within the ATM (5). Even if it were located as such, the central computer (10) is not a server. Eisenberg doesn't even mention a server. It would not have been obvious to have modified Eisenberg as alleged to have produced the recited apparatus.

Claim 22

The Action admits (on page 10) that even a combined Eisenberg/Java would not teach or suggest the recited features, especially a data store that has a recording device with a removable storage medium on which the image data is recorded. Thus, the Office admittedly has not

established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 25

Appellants' Figure 13 shows an example of a document imaging device (230). The Action admits (on page 11) that even a combined Eisenberg/Java would not teach or suggest their ATM having an imaging device that can generate document image signals corresponding to an appearance feature of documents input to the ATM, and a computer that includes (responsive to data store instructions) in the data store document image data corresponding to the document image signals. Thus, the Office admittedly has not established a *prima facie* case of obviousness. *In re Zurko*, supra. *In re Lee*, supra. The Action's many assertions are without merit because they are not based on any supporting prior art evidence of record. Note Appellants' claim 3 remarks for further explanation as to why the rejection cannot be legally valid when the Office itself admits that even the combined references would lack the recited features.

Claim 26

Claim 26 depends from claim 25/1. The Action admits (on page 11) that even a combined Eisenberg/Java would not teach or suggest storing document image data (corresponding to document image signals generated with an imaging device) in correlated relation with image data (produced responsive to camera signals). Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 27

Claim 27 depends from claim 25/1. The Action admits (on page 12) that even a combined Eisenberg/Java would not teach or suggest that a server is operative responsive to data store instructions to deliver document image data through a network. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 28

Claim 28 depends from claim 27/25/1. The Action admits (on page 12) that even a combined Eisenberg/Java would not teach or suggest a document verification terminal that is operative to access document image data through a server, and compare the document image data with indicia data (indicative of the genuineness of documents) from a verification data store. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 29

Claim 29 depends from claim 28/27/25/1. The Action admits (on page 13) that even a combined Eisenberg/Java would not teach or suggest indicia in a verification data store that corresponds to written signatures, and a document verification terminal can compare signatures in documents (represented by document image data) to data representative of written signatures in the verification data store. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 30

Claim 30 depends from claim 4/1. Appellants' Figure 17 shows an example of sets of images. The Action admits (on page 13) that even a combined Eisenberg/Java would not teach or suggest an ability to display at a user terminal a plurality of images corresponding to a transaction together in a set. Thus, the Office admittedly has not established a *prima facie* case of obviousness. *In re Zurko*, supra. *In re Lee*, supra. Note Appellants' claim 3 remarks for further explanation as to why the rejection cannot be legally valid when the Office itself admits that even the combined references would lack the recited features.

Furthermore, Eisenberg does not teach or suggest that video and audio can be transmitted via a modem to separate (plural) user terminals at col. 3, lines 1-3, as alleged by the Office. Nor does Eisenberg state that video can be transmitted to bank security people and the police at the same time. Rather, Eisenberg only teaches sending the video to either the "bank security people or the police". Eisenberg's reference to "same time" corresponds to the silent alarm. That is, the video can be sent at the same time as the silent alarm.

Claim 31

Claim 31 depends from claim 30/4/1. Appellants' Figure 19 shows a larger version of a selected image. The Action admits (on page 14) that even a combined Eisenberg/Java would not teach or suggest an ability to select one image from a set of user terminal displayed images to have a larger version of the selected image displayed. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 32

Claim 32 depends from claim 31/30/4/1. The Action admits (on page 14) that even a combined Eisenberg/Java would not teach or suggest storing data representative of transaction data (produced responsive to transaction function device operation) in a data store in correlated relation with corresponding image data (produced responsive to camera signals), and access the transaction data at a user terminal with a browser, especially to display the transaction data at the user terminal with the selected image. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 33

Claim 33 depends from claim 31/30/4/1. The Action admits (on page 15) that even a combined Eisenberg/Java would not teach or suggest that user terminal selection of a displayed icon is operative to selectively cause images in a *series* of images to be made visible on a display (of the user terminal of claim 30). Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 34

Claim 34 depends from claim 33/31/30/4/1. The Action admits (on page 15) that even a combined Eisenberg/Java would not teach or suggest that user terminal selection of a first displayed icon is operative to cause an image in a *first* direction in the series (of claim 33) to be made visible, and user terminal selection of a second displayed icon is operative to cause an image in a *second* direction in the series (of claim 33) to be made visible on the display. Thus,

the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 35

Claim 35 depends from claim 33/31/30/4/1. The Action admits (on page 16) that even a combined Eisenberg/Java would not teach or suggest that user terminal selection of a displayed icon enables scrolling through a series of images (of claim 33). Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 36

Claim 36 depends from claim 33/31/30/4/1. Appellants' Figure 17 embodiment shows an example of first and second icons (306, 308). The Action admits (on page 16) that even a combined Eisenberg/Java would not teach or suggest that selection of a first displayed icon causes the display of an image disposed a first number of images in a series of images from the currently displayed image, and that selection of a second displayed icon causes display of an image disposed of a second number of images in the series from a currently displayed image. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 37

Claim 37 depends from claim 36/33/31/30/4/1. The Action admits (on page 16) that even a combined Eisenberg/Java would not teach or suggest that an image displayed responsive to selection of the first displayed icon, and an image displayed responsive to selection of the second displayed icon, are each disposed in the same direction in the series from the currently displayed

image. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Note Appellants' claim 3 remarks for further explanation regarding the insufficient cy of the rejection.

Claim 38

For reasons of brevity, Appellants' previous remarks regarding the patentability of claim 1 are incorporated herein by reference. For reasons previously discussed, the references do not teach or suggest:

1. A computer that, in response to operation of a selected ATM function device, stores (on a first date) camera image data in a networked data store.
2. A networked remote terminal (in operative connection with the data store) that can (on a second date) retrieve the stored image data and display the images.

For reasons already provided, the references do not teach or suggest all of the recited features and relationships. Nor would it have been obvious to have modified Eisenberg as alleged. Nor would Eisenberg if somehow modified as alleged, have resulted in the recited invention. The Office has not established a *prima facie* case of obviousness.

Even if it were somehow possible (which it isn't) to modify Eisenberg as alleged, the modified Eisenberg still would not result in a networked remote terminal that can retrieve and display from a networked data store, human images captured at an ATM. Nor would the modified Eisenberg teach or suggest the recited timing among image capture, image storage, and image retrieving from storage for display. Where would the modified Eisenberg teach or suggest an apparatus that causes: a camera to capture human images at an ATM; a computer to store (on a first date) the ATM/human images in a networked data store responsive to operation of a

selected function device of the ATM; and a networked terminal (that is remote from the ATM) to receive (on a second date) the ATM/human images from the data store for display?

As previously discussed (e.g., claim 1 remarks), Eisenberg has a conventional security camera (6) that locally stores the video (col. 1, lines 63-64; col. 3, lines 51-52) on a local medium (e.g., tape in the camera). Even the Office acknowledges (e.g., Action page 10, last paragraph) that Eisenberg's camera images are likely recorded onto a local analog tape. That is, video goes directly from the camera to storage on a nearby tape. Thus, even if it were somehow possible to modify Eisenberg as alleged, he still would not teach or suggest a terminal (remote from the ATM) that could access over a network the video stored on the analog tape.

Additionally, as previously discussed, it is well known for security cameras to continuously overwrite their tape. As a result, a 12-hour security tape would contain the most recent 12 hours. Because of this overwriting, image data stored on the tape on one date would not be available on a later date. This overwriting is likely why Eisenberg sends the video to the police at the same time as the silent alarm.

The Office doesn't (and can't) explain how the analog tape could constitute a data store on a network. Nor does the Office explain how a remote terminal on the network could retrieve the video from the analog tape, especially on a later date (e.g., a date after the video was overwritten). Even if (for sake of argument) Eisenberg had a police terminal as alleged, there still would be no teaching or suggestion of the police terminal and the video tape (located at the ATM) being on the same network so as to enable the police terminal to retrieve the video from the tape at a later date. The Office has not established a *prima facie* case of obviousness.

For reasons previously discussed, the rejection is also not valid because it is wrongly based (at page 17, last paragraph) on an ATM accessing a data store, instead of on a terminal (being remote from the ATM) accessing a data store. Again, Eisenberg does not teach, suggest, or need to display images at a second ATM that were captured at a first ATM.

Thus, Appellants respectfully submit that the 35 U.S.C. § 103(a) rejection of claim 38 should be reversed.

Claim 39

Claim 39 depends from claim 38. As previously discussed, Eisenberg teaches away from storing image data responsive to operation of a selected transaction function device during an ATM transaction. Conversely, Eisenberg specifically teaches actuating the camera (6) in response to a message from a central computer (10) that is remotely located (Figure 1) from the ATM (5) (col. 3, lines 9-14 and 45-51).

Java doesn't store image data (as previously discussed), let alone store it in response to operation of a selected ATM transaction function device. Thus, Java cannot alleviate the deficiencies of Eisenberg. The Office has not established a *prima facie* case of obviousness.

The Action's allegation (on page 19) that in Eisenberg a "user entering the emergency PIN" constitutes a transaction, lacks any supporting basis, especially to one having ordinary skill in the art. First, claim 39 states "responsive to operation of a selected transaction function device". Claim 39 does not state "responsive to user input". Secondly, (as previously discussed with regard to claim 4) in Eisenberg an emergency PIN causes a *simulation* of a transaction. Eisenberg teaches that an emergency PIN causes the ATM to simulate a real transaction (abstract; col. 2, lines 11-28 and 40-45; col. 3, line 54 to col. 4, line 11; col. 4, lines 40-45). The ATM is

operated "automatically" (col. 2, line 22) to control the simulation (via a simulation program), which results in a "predetermined" (col. 2, line 45; col. 4, line 44) outcome. Even the display screen at the ATM is controlled during the simulation (col. 4, lines 3 and 8). The user has no control of the ATM. Nor can the user carry out a real transaction. Nor is there any evidence in Eisenberg that a user account would be assessed (as in a user transaction) for any cash dispensed in the simulation.

Claim 40

Claim 40 depends from claim 39/38. For reasons previously discussed, the references do not teach or suggest a networked remote terminal and a networked data store. Nor does Eisenberg, as previously discussed, send images to the police on a second date after first storing the images in a networked data store on a first date. The Office has not established a *prima facie* case of obviousness.

Claim 41

For reasons of brevity, Appellants' previous remarks regarding the patentability of claim 1 are incorporated herein by reference. For reasons previously discussed, the references do not teach or suggest:

1. A computer (including a network server and being in operative connection with an ATM) that causes image data related to the ATM to be stored (at a first time) in a data store responsive to the ATM carrying out a transaction function with one of its transaction function devices.
2. A network user terminal (remote from the ATM) that communicates with the network server to output (at a second time) the stored image data.

For reasons already provided, the references do not teach or suggest all of the recited features and relationships. Nor would it have been obvious to have modified Eisenberg as alleged. Nor would Eisenberg even if somehow modified as alleged have produced the recited invention. The Office has not established a *prima facie* case of obviousness.

Even if it were somehow possible (which it isn't) to modify Eisenberg as alleged, the modified Eisenberg still would not store ATM image data in a server data store, nor have a network user terminal (that is remote from the ATM) that could later communicate with the server to access the stored image data.

Nor would the modified Eisenberg teach or suggest storing image data in a data store responsive to the ATM carrying out a transaction function with one of its transaction function devices. As previously discussed, Eisenberg specifically teaches actuating the camera (6) in response to a message from a central computer (10) (col. 3, lines 9-14 and 45-51). The central computer (10) is remotely located from the ATM (5) (and its transaction function devices).

As previously discussed (e.g., claim 1 remarks), Eisenberg has a conventional security camera (6) that locally stores the video (col. 1, lines 63-64; col. 3, lines 51-52) on a local medium (e.g., tape in the camera). Even the Office acknowledges (e.g., Action page 10, last paragraph) that Eisenberg's camera images are likely recorded onto a local analog tape. That is, the video goes directly from the camera to a nearby tape. Thus, even if it were somehow possible to modify Eisenberg as alleged, he still would not teach or suggest a remote terminal (remote from the ATM) that could access the video stored on the analog tape.

Additionally, as previously discussed, it is well known for security cameras to continuously overwrite their tape. As a result, a 12-hour security tape would contain the most

recent 12 hours. Because of this overwriting, image data stored on Eisenberg's tape at a "first time" would not be available at a later "second time". The Office doesn't explain how a computer/server (if in Eisenberg) could store the images onto the tape. Nor does the Office explain how a remote user terminal could (digitally) communicate with a network server to access video from the analog tape, especially at a later time (e.g., a time after the video was overwritten). The Office has not established a *prima facie* case of obviousness.

For reasons previously discussed, the rejection is also not valid because it is wrongly based on (at page 21) ATM/server/data store communication, not on user terminal/server/data store communication. Again, Eisenberg does not teach, suggest, or need to display images at one ATM that were captured at a different ATM. Thus, Appellants respectfully submit that the 35 U.S.C. § 103(a) rejection of claim 41 should be reversed.

Claim 42

Claim 42 depends from claim 41. The Action admits (on page 22) that even a combined Eisenberg/Java would not teach or suggest an image device located in the *interior* of their ATM. As shown in Eisenberg's Figure 1, the relied upon camera (6) is situated *exterior* of the ATM (5). Thus, the Office admittedly has not established a *prima facie* case of obviousness. *In re Zurko*, supra. *In re Lee*, supra. Note Appellants' claim 3 remarks for further explanation as to why the rejection is not be legally valid.

The Action's assertion (on page 22) that it would have been obvious to move Eisenberg's exterior camera (6) interior of the ATM "to capture close up images" is without any supporting basis (as previously discussed with regard to claim 9). As Eisenberg's exterior camera (6) can already provide close ups (col. 3, line 16), there would be no practical reason to move it (even if

somehow structurally and functionally possible) to the ATM interior. The only reason provided on record for the asserted movement of camera (6) is impermissible hindsight reconstruction of Appellants' claimed invention.

Claim 43

Claim 42 depends from claim 42/41. The Action admits (on page 22) that even a combined Eisenberg/Java would not teach or suggest a server and data store located in the *interior* of their ATM. Thus, the Office admittedly has not established a *prima facie* case of obviousness. Again, note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

The Office's assertions regarding claim 43 lack any supporting basis. Eisenberg does not teach or suggest the central computer (10) being located within the ATM (5). Even if it were located as such, the central computer (10) is not a server. Eisenberg doesn't even mention a server. It would not have been obvious to have modified Eisenberg as alleged to have produced the recited apparatus.

The Claims Are Not Obvious Over
Eisenberg in view of Java and Hoang

Claims 10-11, 14-16, 18-21, and 23-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eisenberg in view of Java and Hoang.

Claim 10

Claim 10 depends from claim 8/1. The Action admits (on page 23) that Eisenberg/Java do not teach or suggest a data store including both camera image data and motion detection

instructions. The Action also admits that Eisenberg/Java do not teach or suggest using the stored motion detection instructions to include the image data in the data store.

Hoang is directed to a process for detecting changes in captured video scenes in order to remove extraneous frames from the video. The Action is silent as to what relationship scene selection has to do with motion detection. How does selecting scenes from already captured video relate to capturing video responsive to motion detection? The Office has not established a *prima facie* case of obviousness.

Claim 11

Claim 11 depends from claim 8/1. The Action admits (on page 23) that even a combined Eisenberg/Java/Hoang would not teach or suggest the recited relationships among a door, door sensor, instructions, image data, and data store. Thus, the Office admittedly has not established a *prima facie* case of obviousness. *In re Zurko*, supra. *In re Lee*, supra. Note Appellants' claim 3 remarks for further explanation with regard to the rejection not being legally valid.

The Action's assertion that opening a door would constitute a scene change in Hoang to activate a camera is without any supporting basis. Conversely, as previously discussed, Hoang' scene change detection process occurs *after* the video scenes have already been captured by an already activated camera. The references don't teach or suggest including camera image data in a data store responsive to opening of a service area door.

Claim 14

The Action admits (on page 24) that Eisenberg/Java do not teach or suggest the recited features. Hoang cannot alleviate the admitted deficiencies of Eisenberg/Java. Hoang also does not teach or suggest a data store that includes instructions for determining a time period during

which the data store is expected to continue to accept additional data, or the ability to calculate such a time period responsive to the instructions. The Office has not established a *prima facie* case of obviousness.

Claim 15

Claim 15 depends from claim 14/1. The Action relies on Hoang for the recited features. However, Hoang does not teach or suggest data store instructions for determining a time period (during which a data store is expected to continue to accept additional data; claim 14) and for sending a message through a network that includes data representative of the time period. The Action is silent as to where Hoang allegedly teaches the recited features.

Nor has the Office explained how Eisenberg/Java could have been modified as alleged to have operated the alleged computer to send a message through the network. Even the Office admits (at Action page 26, lines 1-3) that Eisenberg/Java do not teach or suggest a computer on a network. The Office has not established a *prima facie* case of obviousness.

Claim 16

Claim 16 depends from claim 14/1. The Action admits (on page 25) that even a combined Eisenberg/Java/Hoang would not teach or suggest a data store including a transaction history pattern, or calculating a time period (during which a data store is expected to continue to accept additional data; claim 14) responsive to the transaction history pattern. Thus, the Office admittedly has not established a *prima facie* case of obviousness. *In re Zurko*, supra. *In re Lee*, supra. Note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Claim 18

The Action admits (on page 26) that Eisenberg/Java do not teach or suggest that camera signals are transmitted to a computer through a network. The Action relies on Hoang at col. 3, lines 35-61 and Figure 1 for a teaching of "a two way communication network between the cameras and the CPU". However, the relied upon section in Hoang only mentions "two-way communication", not a "network". The Office has not established that Hoang can alleviate the admitted deficiencies of Eisenberg/Java. It follows that the Office has not established a *prima facie* case of obviousness.

Claim 19

The Action admits (on page 26) that Eisenberg/Java do not teach or suggest a camera server in operative connection with the camera and the computer. The Action relies on Hoang at col. 5, lines 15-33 and Figure 4 for teaching the recited camera server. However, the relied upon section in Hoang does not provide basis for a "camera server". Hoang in the relied upon section merely states that the cameras (42, 44) are "coupled" to the video conferencing system (46). Where does Hoang mention "camera server" or even "server"? The Office has not established that Hoang can alleviate the admitted deficiencies of Eisenberg/Java. It follows that the Office has not established a *prima facie* case of obviousness.

Claim 20

The Action admits (on page 27) that Eisenberg/Java do not teach or suggest the relationships among a computer's server and a user terminal on a first network, and cameras and the computer on a second network. The Action also admits (with regard to claims 20 and 18) that Eisenberg/Java do not teach or suggest that a camera communicates with a computer through

a network. The Action's reliance on Hoang at col. 5, lines 15-33 and Figure 4 does not teach or suggest the recited features. The Office has not established a *prima facie* case of obviousness.

Claim 21

Claim 21 depends from claim 20/1. Appellants' Figure 12 embodiment (corresponding to specification page 57) shows an example of a power supply network. The Action admits (on page 27) that even a combined Eisenberg/Java/Hoang would not teach or suggest a power supply network. Thus, the Office admittedly has not established a *prima facie* case of obviousness. *In re Zurko*, supra. *In re Lee*, supra. Note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection. Furthermore, the Office has not explained how supplying backup power to cameras relates to the cameras communicating with a computer over an electrical power distribution network.

Claim 23

The references further do not teach or suggest the ability to determine the amount of image data in a data store, and transferring data through a network to a remote data store responsive to the amount being too great. The Action admits (on page 28) that even Hoang lacks the features admitted to be absent in Eisenberg/Java. No other prior art is relied upon in the rejection. Thus, the Office has not established a *prima facie* case of obviousness.

Claim 24

Claim 24 depends from claim 23/1. The Action admits (on page 28) that even a combined Eisenberg/Java/Hoang would not teach or suggest erasing image data from a data store after transferring it through a network to a remote data store in response to the amount of the image data being too great. Thus, the Office admittedly has not established a *prima facie* case of

obviousness. Note Appellants' claim 3 remarks for further explanation regarding the impropriety of the rejection.

Furthermore, the Office's assertion that unless video was erased then no further recording could occur lacks any supporting basis. Eisenberg would simply insert a new video tape. Regardless, even if Eisenberg erased the video tape by overwriting it, he still wouldn't teach or suggest transferring the video via a network to remote storage prior to the overwriting.

Claim 12 Is Not Obvious Over
Eisenberg in view of Java, Hoang, and Wookey

Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Eisenberg in view of Java and Hoang and Wookey.

Claim 12 depends from claim 11/8/1. The Action admits (on page 29) that Eisenberg/Java/Hoang do not teach or suggest the ability to: include image data corresponding to camera signals in a data store responsive to the machine carrying out a transaction function (claim 1); include image data corresponding to second camera signals in the data store responsive to instructions and sensing that a service area door has been opened (claims 8 and 11); and send an e-mail message through a network responsive to the instructions (claim 12). The alleged e-mail feature of Wookey cannot alleviate the many deficiencies of Eisenberg/Java/Hoang. Also, it would be unreasonable to have an individual using Eisenberg's ATM (5) send an e-mail to the central computer (10), as alleged by the Office. How could the central computer (10) answer an e-mail? At best, the individual would call a customer service center. The Office has not

established a *prima facie* case of obviousness. It would not have been obvious to have modified Eisenberg as alleged to have produced the recited apparatus.

CONCLUSION

Each of Appellants' pending claims specifically recites features and relationships that are neither disclosed nor suggested in any of the applied prior art. Furthermore, the applied prior art is devoid of any teaching, suggestion, or motivation for combining features of the applied prior art so as to produce the recited invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,

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(viii) CLAIMS APPENDIX

1. Apparatus comprising:

an automated banking machine carrying out at least one transaction function;

at least one camera adjacent the banking machine, wherein the camera is operative to produce camera signals corresponding to images;

a computer including a server in operative connection with a data store, wherein the computer is in operative connection with the machine and the camera, and wherein the computer is operative to include image data corresponding to the camera signals in the data store responsive to the machine carrying out at least one transaction function;

at least one communication network in operative connection with the server; and

a user terminal including an output device in operative connection with the network, wherein the user terminal includes a browser, and wherein the user terminal communicates with the server through the browser and is operative to output images corresponding to the image data through the output device.

2. The apparatus according to claim 1 wherein the banking machine is operative to provide cash, and wherein the computer is operative to include image data in the data store responsive to the machine operating to provide cash.

3. The apparatus according to claim 2 wherein the data store includes instructions including data representative of a predetermined amount, and wherein the computer is operative to include image data in the data store when an amount of cash provided by the machine is at least the predetermined amount.

4. The apparatus according to claim 1 wherein the machine includes a plurality of transaction function devices, and wherein the computer is operative to include image data in the data store responsive to operation of each of a plurality of transaction function devices during a transaction.

5. The apparatus according to claim 1 and further comprising a plurality of cameras, and wherein the data store further comprises instructions including a sequence, wherein the computer is operative to sense lack of usable video from a first camera and to store image data from a second camera responsive to the sequence.

6. The apparatus according to claim 1 wherein the banking machine includes an input device, and wherein the input device receives input data through the input device, and wherein the banking machine carries out the transaction function responsive to the input data, and wherein the computer is operative to include in the data store transaction data corresponding to the input data.

7. The apparatus according to claim 6 wherein the user terminal is operative to process the transaction data with the browser, and to output indicia corresponding to the transaction data with the output images through the output device.

8. The apparatus according to claim 1 and further comprising a second camera, wherein the second camera produces second camera signals corresponding to a service area of the machine, and wherein the computer is operative to include in the data store image data corresponding to the second camera signals.

9. The apparatus according to claim 8 wherein the second camera is located in an interior of the automated banking machine.

10. The apparatus according to claim 8 wherein the data store further includes motion detection instructions, and wherein the computer is operative responsive to the motion detection instructions to include the image data corresponding to the second camera signals in the data store.

11. The apparatus according to claim 8 and further comprising a door, wherein opening the door is operative to provide access to the service area, and further comprising a sensor in operative connection with the door, and further comprising instructions in the data store, wherein the computer is operative responsive to the instructions and the sensor indicating that the door has been moved to an open condition, to include the image data corresponding to the second camera signals in the data store.

12. The apparatus according to claim 11 wherein the computer is further operative responsive to the instructions to send an e-mail message through the network.

13. The apparatus according to claim 1 wherein the data store includes instructions representative of a sequence, and wherein the computer is operative responsive to the sequence to include image data in the data store, and wherein the user terminal has in connection therewith a user terminal input device, and wherein the sequence is changeable through an input to the user terminal input device.

14. The apparatus according to claim 1 wherein the data store includes instructions for determining a time period during which the data store is expected to continue to accept additional data, and wherein the computer is operative responsive to the instructions to calculate such a time period.

15. The apparatus according to claim 14 wherein the instructions include message instructions for sending a message, and wherein the computer is operative responsive to the message instructions to send a message through the network wherein the message includes data representative of the time period.

16. The apparatus according to claim 14 wherein the data store includes a transaction history pattern, and wherein the computer calculates the time period responsive to the transaction history pattern.

17. The apparatus according to claim 1 wherein the server and data store are located within the banking machine.

18. The apparatus according to claim 1 wherein the camera signals are transmitted to the computer through a network.

19. The apparatus according to claim 1 and further comprising a camera server in operative connection with the camera, wherein the camera server is in operative connection with the computer.

20. The apparatus according to claim 1 and further comprising a plurality of cameras, and wherein a further network is in operative connection with the plurality of cameras and the computer, wherein the plurality of cameras communicate with the computer through the further network.

21. The apparatus according to claim 20 wherein the further network includes a power supply network.

22. The apparatus according to claim 1 wherein the data store comprises a recording device having a removable storage medium, wherein the image data is recorded on the removable storage medium.

23. The apparatus according to claim 1 wherein the data store includes instructions for determining if an amount of image data in the data store is at a level, and further comprising a remote data store in operative connection with the network, wherein the computer is operative responsive to the amount of the image data being as great as the level, to transfer data through the network to the remote data store.

24. The apparatus according to claim 23 wherein the data store includes further instructions, wherein the computer is operative responsive to the further instructions to erase image data in the data store after transfer of such image data to the remote data store.

25. The apparatus according to claim 1 wherein the banking machine includes an imaging device, wherein the imaging device is operative to generate document image signals corresponding to at least one appearance feature of documents input to the machine, and wherein the data store includes instructions, and the computer is further operative responsive to the

instructions to include in the data store document image data corresponding to the document image signals.

26. The apparatus according to claim 25 wherein the document image data is stored in correlated relation with image data produced responsive to the camera signals.

27. The apparatus according to claim 25 wherein the data store includes further instructions, and the server is operative responsive to the further instructions to deliver the document image data through a network.

28. The apparatus according to claim 27 and further comprising a document verification terminal in operative connection with the network, and wherein the document verification terminal is in operative connection with a verification data store including data representative of indicia which is indicative of the genuineness of documents, and wherein the document verification terminal includes a further browser, and wherein the document verification terminal is operative to access the document image data through the server and to compare the document image data and the indicia from the verification data store.

29. The apparatus according to claim 28 wherein the indicia in the verification data store corresponds to written signatures, and wherein the document verification terminal is operative to compare signatures in documents represented by the document image data, to data representative of the written signatures in the verification data store.

30. The apparatus according to claim 4 wherein the output device of the user terminal comprises a display, and wherein the display is operative to display a plurality of images corresponding to operation of the transaction function devices during the transaction, together in a set on the display.

31. The apparatus according to claim 30 wherein the user terminal further comprises an input device, wherein the input device is selectively operative to select one of the images in a set, and wherein the user terminal is operative responsive to selection of one image in a set, to display a larger version of the selected image on the display.

32. The apparatus according to claim 31 wherein the banking machine is operative to produce transaction data responsive to operation of at least one transaction function device, and wherein the computer is operative to store data representative of the transaction data in a data store in correlated relation with the corresponding image data, and wherein the transaction data is accessed by the user terminal with the browser, and wherein the corresponding transaction data is output on the display of the user terminal with the selected image.

33. The apparatus according to claim 31 wherein the display includes an icon, and wherein selection of the first icon with the input device is operative to selectively cause images in a series of images to be made visible on the display.

34. The apparatus according to claim 33 and wherein the display comprises a first icon and a second icon, wherein selection of the first icon with the input device is operative to cause at least one image in a first direction in the series to be made visible and wherein selection of the second icon with the input device is operative to cause at least one image in a second direction in the series other than the first direction, to be made visible on the display.

35. The apparatus according to claim 33 wherein selection of the icon is operative to scroll through the series of images.

36. The apparatus according to claim 33 wherein the display comprises a first icon and a second icon, wherein selection of the first icon with the input device is operative to cause at least one image in the series disposed of a first number of images in the series from a currently displayed image, to be displayed on the display, and wherein selection of the second icon with the input device is operative to cause at least one image in the series disposed a second number of images in the series from a currently displayed image, to be displayed.

37. The apparatus according to claim 36 wherein the at least one image displayed responsive to the first icon and the at least one image displayed responsive to selection of the second icon, are each disposed in a first direction in the series from the currently displayed image.

38. Apparatus comprising:

an automated teller machine (ATM), wherein the ATM includes a plurality of function devices;

at least one camera adjacent the ATM, wherein the camera is operative to produce camera signals corresponding to at least one human image;

a computer in operative connection with a data store and the at least one camera, wherein the computer is operative to store image data corresponding to the camera signals in the data store responsive to operation of a selected function device, wherein the computer is operative to store the image data on a first date;

at least one communication network in operative connection with the data store;

a terminal in operative connection with the network and the data store, wherein the terminal is remotely located from the ATM, wherein the terminal includes a display device, wherein the terminal is operative to receive retrieved stored image data on a second date different from the first date, and wherein the terminal is operative to display images corresponding to the retrieved image data through the display device.

39. The apparatus according to claim 38 wherein the function devices comprise transaction function devices, wherein the computer is operative to store image data corresponding to the camera signals in the data store responsive to operation of a selected transaction function device during an ATM transaction.

40. The apparatus according to claim 39 wherein the camera is operative to produce camera signals corresponding to a customer of the ATM, and wherein the terminal is operative to display images corresponding to customer image data through the display device.

41. Apparatus comprising:

an automated teller machine (ATM) including a plurality of transaction function devices;

at least one image device adjacent the ATM, wherein the at least one image device is operative to produce signals corresponding to images;

a computer including a server in operative connection with a data store, wherein the computer is in operative connection with the ATM, and wherein responsive to the ATM carrying out at least one ATM transaction function through operation of at least one transaction function device, the computer is operative at a first time to cause image data corresponding to the signals to be included in the data store;

at least one network in operative connection with the server;

a user terminal remotely located from the ATM and in operative connection with the network, wherein the user terminal includes an output device, and wherein the user terminal is operative to communicate with the server and to output images corresponding to the image data through the output device at a second time subsequent to the first time.

42. The apparatus according to claim 41 wherein the at least one image device is located in an interior of the ATM.

43. The apparatus according to claim 42 wherein the server and the data store are located in the interior of the ATM.

(ix) EVIDENCE APPENDIX

(None)

(x) RELATED PROCEEDINGS APPENDIX

(None)